



FREDERICK COUNTY BOARD OF APPEALS

DECEMBER 15th 2022

TITLE: **Grove Accessory Dwelling Unit (ADU)**

CASE NUMBER: **B-22-36 (B273785)**

REQUEST: Requesting approval of a Special Exception to permit an Accessory Dwelling Unit (ADU) Greater than 1,000 sq. ft. in accordance with Section 1-19-3.210 and Section 119-8.321 of the Frederick County Code. The ADU is 1,838 sq. ft. and the property size is 5.01 acres.

PROJECT INFORMATION:

ADDRESS/LOCATION: 5936 Elmer Derr Rd
TAX MAP/PARCEL: Tax Map 85, Parcel 188
ZONE: Agricultural (A)
REGION: Adamstown
WATER/SEWER: W-NPS/S-NPS
COMP. PLAN/LAND USE: Agricultural/Rural

APPLICANT/REPRESENTATIVES:

APPLICANT: Deborah Grove
OWNER: Deborah Grove
ENGINEER: N/A
ARCHITECT: N/A
ATTORNEY: N/A

STAFF: Mike Paone, Zoning Planner

RECOMMENDATION: Based on the findings and conclusions in the staff report and the evidence presented at this meeting, Staff finds that the proposed Special Exception, to allow a 1,838 sq ft ADU on the subject property, complies with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code.

ATTACHMENTS:

Attachment 1: ADU 1st Floor Plan
Attachment 2: ADU 2nd Floor Plan
Attachment 3: Site Plan
Attachment 4: Aerial
Attachment 5: Zoning
Attachment 6: Comprehensive Plan
Attachment 7: Environmental Features

Background:

The Accessory Dwelling Unit (ADU) is to be constructed as a separate structure on the Property. The ADU is located on Agricultural zoned land with the total ADU size of 1,838 sq.ft and a footprint of 1,478 sq.ft. **(Attachments 1&2)** The size of the primary residence is 8,140 Sq.Ft., with a footprint of 4,423 sq.ft.

Special Exception.

- A. An application for a special exception may be made only by persons with a financial, contractual or proprietary interest in the property for which a special exception is requested.

The Applicant states that she is the owner of the property requesting for the special exception.

- B. A grant of a special exception is basically a matter of development policy, rather than an appeal based on administrative error or on hardship in a particular case. The Board of Appeals should consider the relation of the proposed use to the existing and future development patterns. A special exception shall be granted when the Board finds that:

1. The proposed use is consistent with the purpose and intent of the Comprehensive Development Plan and of this chapter; and

The Applicant states that the request ADU attached to the main house is consistent with the Frederick County Comprehensive Plan in that it promotes affordable housing for senior citizens and maximizing the efficient and functional use of the county infrastructure by creating housing opportunities without creating new developments or conversion of agriculture land.

2. The nature and intensity of the operations involved in or conducted in connection with it and the size of the site in relation to it are such that the proposed use will be in harmony with the appropriate and orderly development of the neighborhood in which it is located; and –

The Applicant states that the proposed ADU will be used strictly as residence-----with no business or commercial operation of any kind and that it will be in harmony with the surrounding residential homes.

3. Operations in connection with the special exception at the proposed location shall not have an adverse effect such as noise, fumes, vibration or other characteristics on neighboring properties above and beyond those inherently associated with the special exception at any other location within the zoning district; and

The Applicant states that the use of the ADU will not add to, increase or create any noise, fumes, vibration or other ill effects on the neighboring properties, and that it will be consistent with the surrounding residential use. The Applicant states that his family has a strong desire to live a quiet and peaceful country life.

4. Parking areas will comply with the off street parking regulations of this chapter and will be screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.

The Applicant states that there is plenty of parking to accommodate the main house and the ADU in the driveway.

5. The road system providing access to the proposed use is adequate to serve the site for the intended use.

The Applicant states that Elmer Derr Road, fully paved and striped, is more than adequate.

- C. In addition to the general requirements listed above, uses requiring a special exception shall be subject to the specific requirements for each use outlined in §§ [1-19-8.320](#) through [1-19-8.355](#) of this Code.

The Applicant states that she understands this requirement.

- D. A special exception approval may be granted in accordance with the general and specific requirements enumerated in this section. The Board of Appeals may, in addition to other requirements imposed under this chapter and is hereby authorized to add to the specific requirements any additional conditions that it may deem necessary to protect adjacent properties, the general neighborhood, and its residents or workers. Violation of such additional conditions, when made a part of the terms under which the special exception permit is granted, is a violation of this chapter and may be grounds for termination of the special exception.

The Applicant states that she understands this requirement.

- E. The Board of Appeals shall not grant a special exception unless and until:

- (1) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested; and

The Applicant states that she understands this requirement.

- (2) A public hearing has been held; and the Board had made a finding of fact that the special exception requested meets the general and specific requirements outlined in this section.

The Applicant states that she understands this requirement.

- G The grant of special exception may include approval of customary incidental accessory uses as reviewed and approved by the Zoning Administrator.

The Applicant states that she understands this requirement.

- H No use or activity permitted as a special exception shall be enlarged or extended beyond the limits authorized in the grant of special exception. All enlargements, extensions, and changes in use shall require grants of special exception, as in the case of an original petition.

The Applicant states that she understands this requirement.

- I If a grant of special exception is denied, no new petition for the denied use on the same property shall be accepted by the Board of Appeals for 1 year after the date of denial of the petition.

The Applicant states that she understands this requirement.

- J A decision of the Board of Appeals granting a special exception will be void 5 years from date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the applicant, a 1 time extension may be granted by the Zoning Administrator for a period not to exceed 6 months.

The Applicant states that she understands this requirement.

1-19-8.321: The following provisions shall apply to all accessory dwelling units greater than 1,000 square feet in the RC, A, R1, R3, R5, R8, R12, R16, VC, MXD, PUD and MX districts.

- A. Only 1 accessory dwelling unit may be created on a lot.

The Applicant states that 5936 Elmer Derr Road, Frederick, MD 21703-7416 (Tax Map 0085, Parcel 0188, 5.01 Acres) is zoned agricultural for residential use and will only contain one (1) accessory dwelling unit in line with the submitted site plan.

- B. Accessory dwelling units greater than 1000 square feet shall be allowed in single-family dwellings, in an accessory structure, or built as a separate accessory structure, on a single-family lot.

The Applicant states that the detached ADU (1,836 square feet) is greater than 1,000 square feet. The main house is comprised of a total of 8,148 square feet.

- C. The owner of the property must reside in the principal dwelling or in the accessory dwelling unit.

The Applicant states that she understands this requirement.

- D. There must be at least 1 additional parking space provided for the accessory dwelling unit. On-street parking may be utilized to meet this requirement.

The Applicant states that she understands this requirement.

- E. An accessory dwelling unit located in an accessory structure or built as a separate accessory structure must comply with the accessory structure requirements of § 1-19-8.240(B).

The Applicant states that she understands this requirement.

- F. ADUs are intended to serve ongoing housing needs of county residents. Short term rental of ADUs in the nature of extended stay hotels, Airbnbs, or seasonal temporary housing is not permitted.

The Applicant states that she understands this requirement.

- G. The owner of the principal residence shall file an annual statement with the Zoning Administrator verifying that the conditions under which the special exception was granted remain the same.

The Applicant states that she understands this requirement.

- H. If the ownership of the lot changes, the subsequent owner must provide a statement to the Zoning Administrator as to the continuing use and eligibility of the accessory dwelling unit. -

The Applicant states that she understands this requirement.

- I. Due to the nature of this use, site plan approval can be granted by the Zoning Administrator in lieu of the Planning Commission.

The Applicant states that she understands this requirement.

- J. An accessory dwelling unit meeting the provisions of § 1-19-8.212 shall be considered a permitted accessory use and therefore not subject to this section.

The Applicant states that she understands this requirement.

RECOMMENDATION

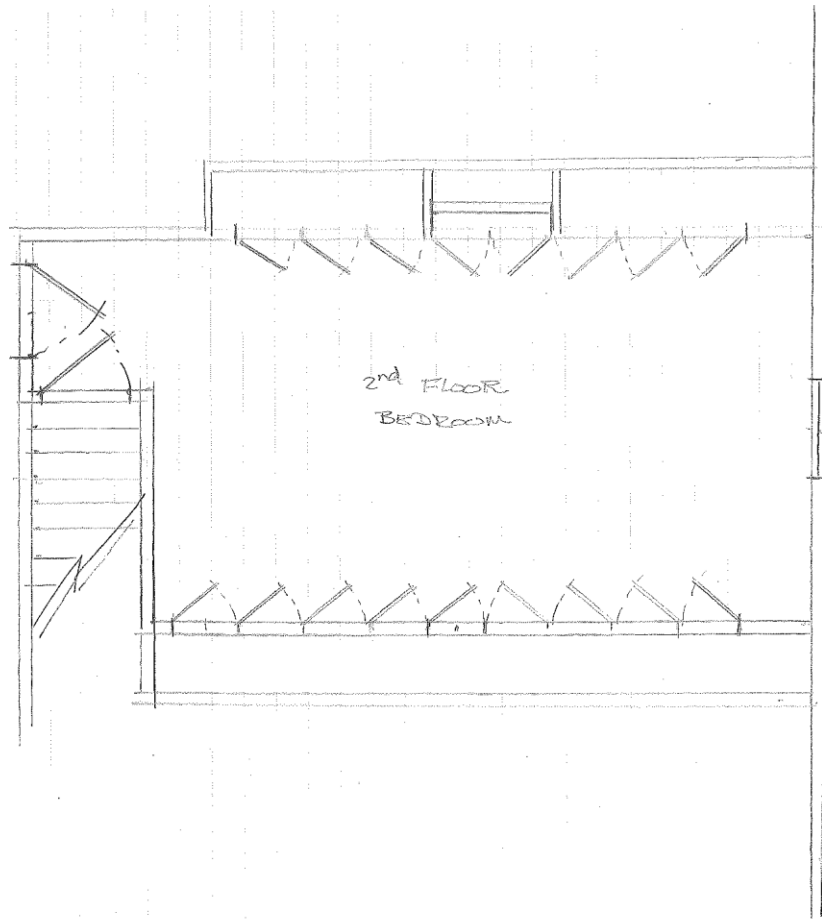
The Board shall consider approval of a Special Exception Accessory Dwelling Unit (ADU) Greater than 1,000 sq. ft. in accordance with Section 1-19-3.210 and Section 1-19-8.321 of the Frederick County Zoning Code.

1-19-3.210.I: A decision of the Board of Appeals granting a special exception will be void 5 years from the date of approval by the Board of Appeals unless the use is established, a building permit is issued, construction has begun, or final site development plan approval has been received in the accordance with the terms of the decision. Upon written request submitted to the Zoning Administrator no later than 1 month prior to the expiration date and for good cause shown by the Applicant, a time extension may be granted by the Zoning Administrator for a period not to exceed 6 months

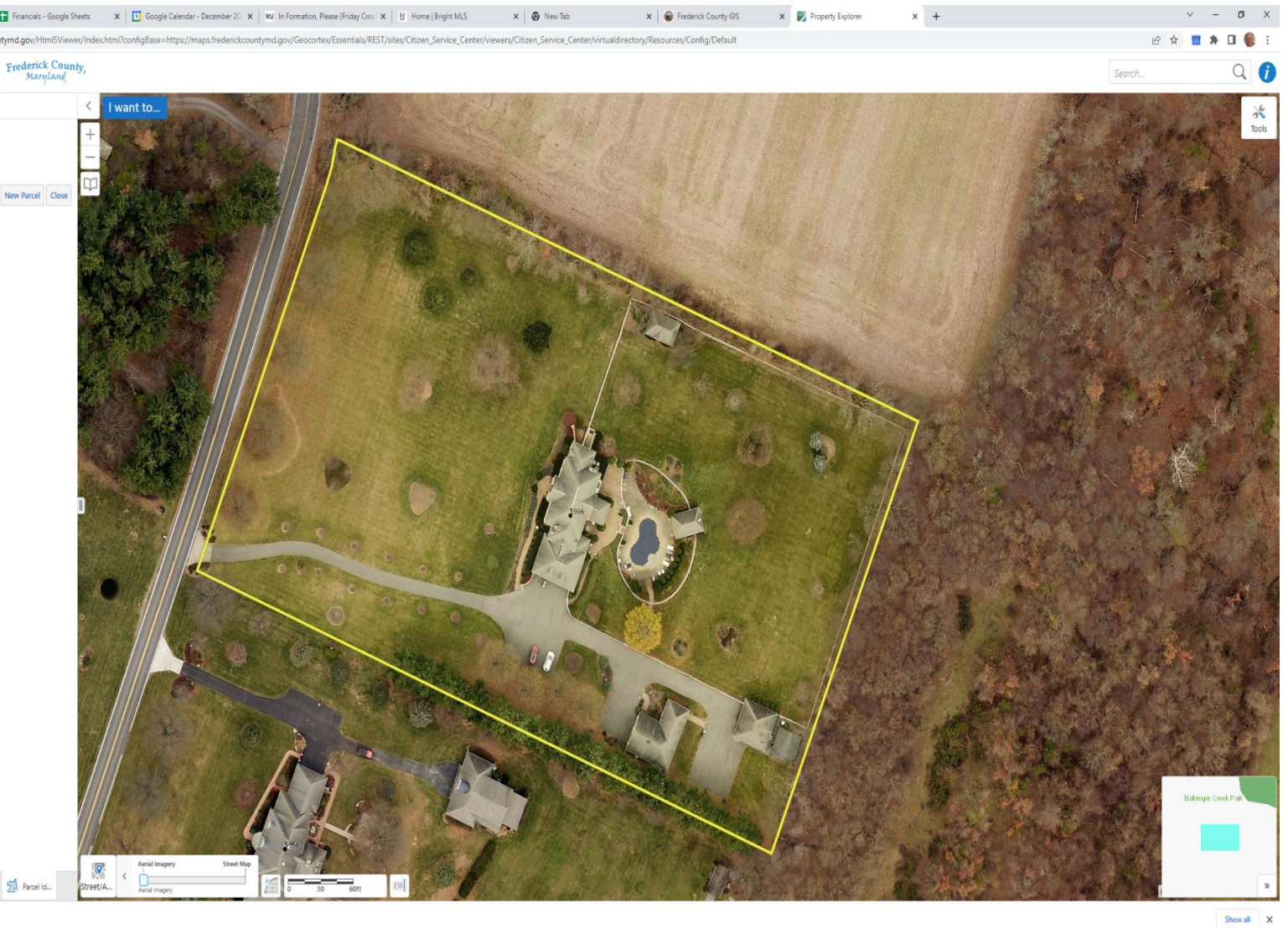
Attachment 1: ADU 1st Floor Plan.



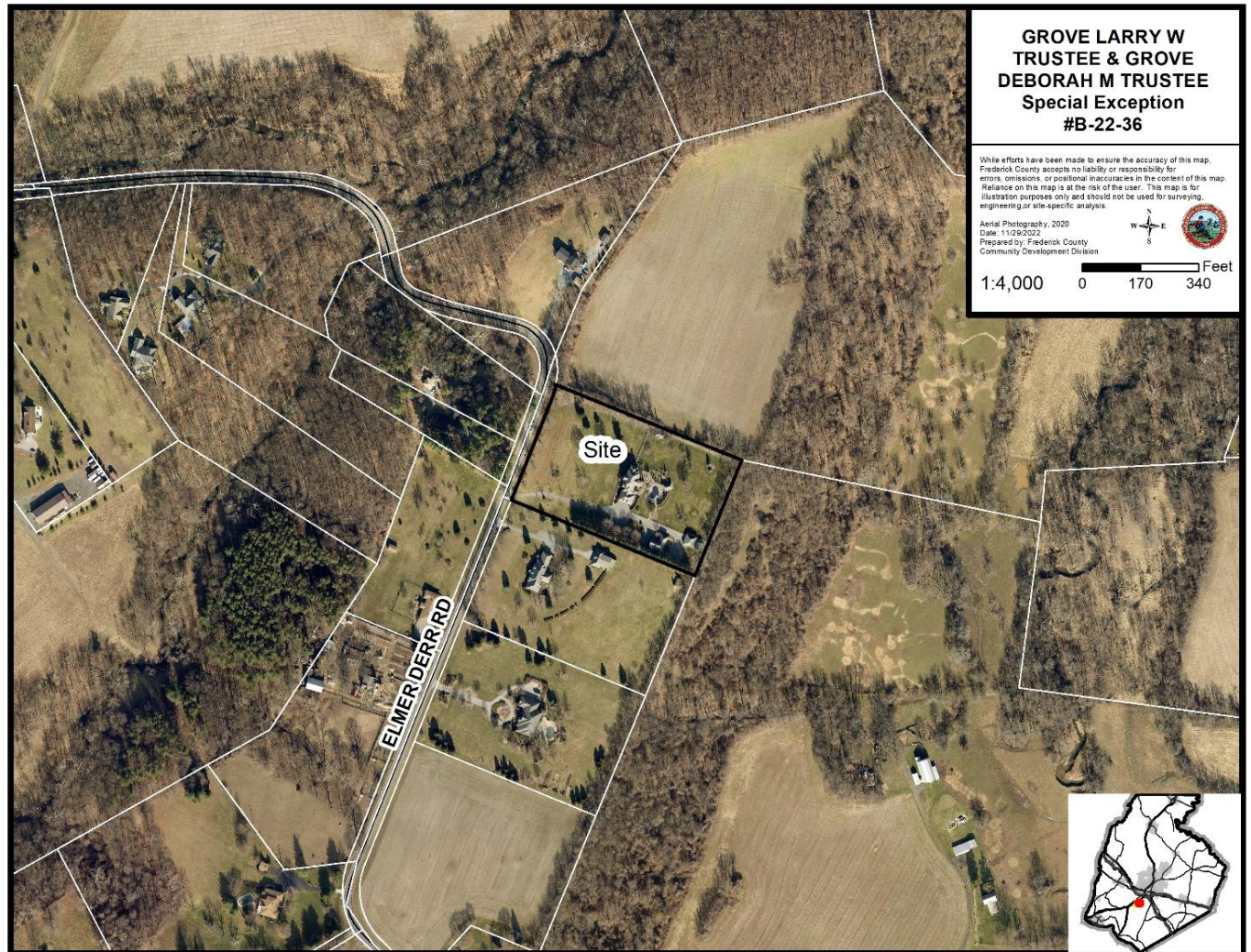
Attachment 2: ADU 2nd Floor Plan



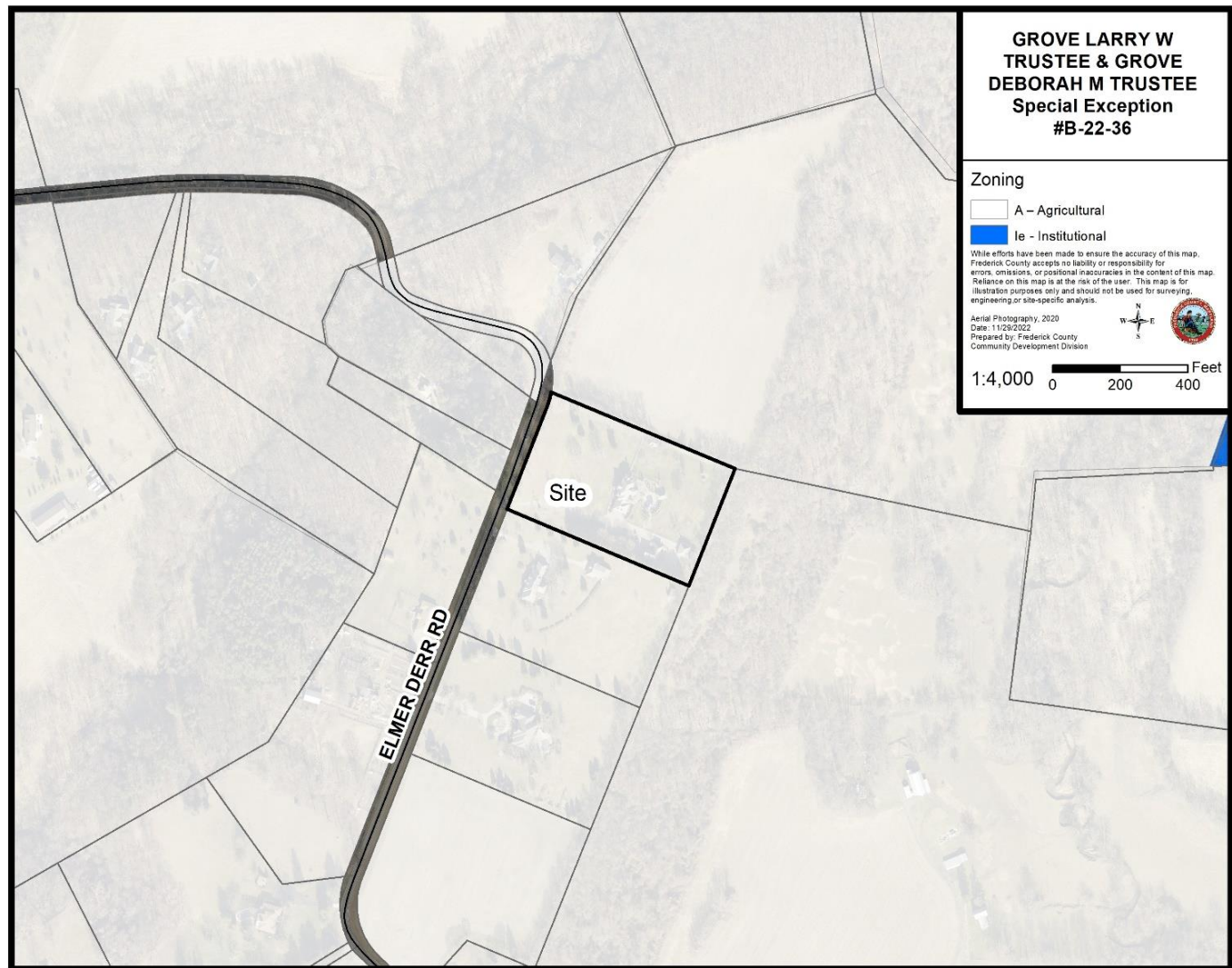
Attachment 3: Site Plan



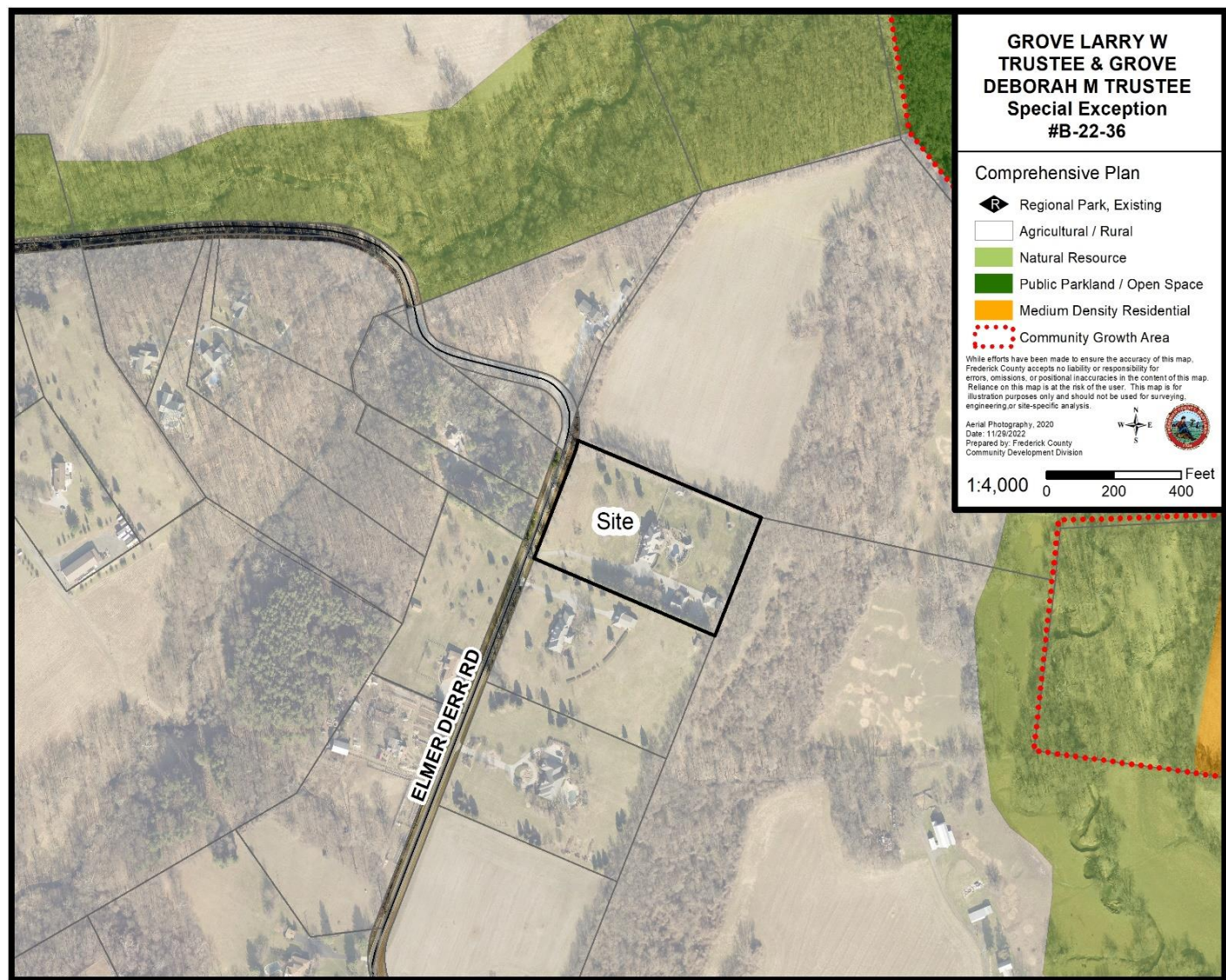
Attachment 4: Aerial Map



Attachment 5 Zoning Map



Attachment 6 Comprehensive Plan



Attachment 7: Environmental Features

